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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Children's and human rights need to be respected in the scope of administrative actions in Germany

The German government has opened the borders for more than one million refugees – and has earned a lot of respect regarding its dealing with refugees and asylum seekers,
many of whom are in need of protection and assistance.

At the same time, Society for Threatened Peoples would like to point out that it is extremely irresponsible to deport children and adolescents of refugee families, who were born or raised in Germany, to countries they have never seen before. We are especially concerned about members of the Roma, Ashkali and the Balkan-Egyptians from Kosovo who fled to Germany in the 1990s.

Due to the armed conflicts of 1998/1999, about 150,000 Roma, Ashkali and Balkan-Egyptians were forced to seek (temporary) refuge in Germany and other Western European countries. Hundreds of members of these minority groups were abducted, tortured or murdered – and many of them drowned in the Adriatic. Around 35,000 found temporary protection in Germany.

In 2009, the federal and state governments started to deport more and more refugees from Kosovo who were still living in Germany. According to estimates, there are still about 4,400 members of the Roma, Ashkali and the Balkan-Egyptians living in Germany, together with their children. So far, they were tolerated – but are now obliged to leave the country. Even though some of these refugees have been living in Germany for more than 15 years, several initiatives to allow them to stay in Germany have failed. Even against the background of German history, such plans did not find a majority in parliament – nor support from the federal government.

Although the European Court of Human Rights (ECHR) decided that Art. 8 ECHR protects those who have their roots in Germany and who do not feel connected to their alleged country of origin at all, several attempts to prevent deportations based on Art. 8 EHCR (the right to private and family life) have failed in court proceedings.

As the government is clearly obliged to protect minors, deportations of children who were tolerated here for several years are to be seen as violations of Art. 1 para. 1 sentence 2 of the German constitution.

Even if it argued that the German authorities and courts have the duty act in the children's best interest, thereby complying with the constitutional obligation to render balanced and justified decisions, the German authorities are disrespecting the Convention on the Rights of the Child. According to Art. 3 paragraph 1 of this convention, the child's welfare must have priority in administrative actions.

As – according to the courts – the refugee children share the fate of their parents, it is especially problematic that the current legal situation does not provide for an independent right of residence in cases where a child of under 14 years of age attends a school in Germany regularly. If the parents are unable to make a living by themselves and are, thus, dependent on social welfare benefits, they are not integrated into the German society (in an economic sense), and their requests for legal protection and a right to stay are dismissed. Thus, children have no chance to be granted a permanent right to stay. Although the German courts have acknowledged that the situation in Kosovo is difficult – and have also acknowledged the discrimination – they argue that this is not enough to rule out deportations.

From the viewpoint of the STP, this is inhumane and irresponsible: The only thing the children know about the country their parents came from are their troubling reports about having to flee from war and persecution, about intolerable discrimination and misery. The only place these children and adolescents feel attached to is Germany.

In a study that was published in November 2015, entitled "Lost in Transition", the Society for Threatened Peoples (STP) was able to show that the Roma are exposed to severe discrimination in Kosovo, meaning returnees cannot live there. It is almost impossible for them to find jobs or a home; they have no access to vocational training, and the health care situation is extremely bad – so most of them are forced to leave the country and head back to Western Europe. This is a vicious circle that promises a bleak future, especially the children.

Link to the study: http://assets.gfbv.ch/downloads/kosovobericht_low_doppelseiten_online.pdf
Without questioning, Roma from Kosovo are also labeled as poverty refugees, although many of them were in acute danger due to "ethnic cleansing" after the war, although they had to flee from discrimination and exclusion from society – and despite the fact that their poverty is due to their ethnicity and due to the attempts of the government of Kosovo to drive them out of the country.

Now, 23 years after Germany ratified the Convention on the Rights of the Child (and since there are no more reservations since 2010) it is time that the rights of all children are fully respected. Also, the observance of children's and human rights must become a guiding principle of administrative action.

Society for Threatened Peoples recommends:

- Germany must stop deporting Roma, Ashkali and Balkan-Egyptians to Kosovo!
- Above all, Germany should grant a right to permanent stay for children who attend a school in Germany and who often only speak German, not Albanian or Serbian!
- The asylum authorities in Germany must take into consideration that, according to the European Court of Human Rights (ECHR), inhumane and discriminatory treatment of a population group is a violation of paragraph 3 of the European Convention on Human Rights!
- Germany and the European Union should urge the government of Kosovo (and provide financial assistance as well as expertise) to ensure a better integration of the three population groups. In particular, there must be improvements concerning housing, job opportunities and education. There must be an end to discrimination! The government must finally respect the relevant laws and programs!
- Germany and the European Union should demand the government of Kosovo government to acknowledge the human rights violations and crimes committed against the Roma, Ashkali and the Balkan-Egyptian communities in the postwar period. Also – as a key prerequisite for integration – those who are responsible must be brought to justice!